Testimony by Paul R. McCary
before the
Energy and Technology Committee on
HB 6360 AAC
Implementation of Connecticut's Comprehensive Energy Strategy

March 7, 2013

Mr. Chairman, Madam Chairwoman and Members of the Committee. My name is Paul McCary and I am pleased to have the opportunity to submit this written testimony regarding the Legislature's efforts to address submetering. By way of introduction, I am an attorney at Murtha Cullina. During my 30 years of practice I have frequently represented utilities and businesses in utility regulatory matters. In addition, I serve as an adjunct law professor at the University of Connecticut School of Law, where I teach a class on energy regulatory policy. Today I represent PMC Property Group, an owner and manager of residential and commercial properties in Connecticut and elsewhere throughout the Northeast and the East Coast generally. PMC focuses on adaptive re-use: converting older urban commercial buildings into residential apartments. Examples include 55 Trumbull Street in Hartford and the Chapel Square Mall in New Haven.

First, I would like to applaud the Governor and DEEP for identifying submetering as a critical energy policy issue for Connecticut. For the past six years I have been representing PMC and others entangled with this state's antiquated submetering rules. As I will explain today, the negative impact of these rules far outweighs any benefits. Many states around the country embrace submetering, including states that touch our own borders. Connecticut already leads the way in many aspects of energy policy. The time is now for Connecticut to join its neighbors and states around the US with respect to submetering.

Submetering Permits Smarter, Cleaner, More Efficient Energy Systems

Connecticut has long put energy efficiency at the top of its policy priorities. Our state has also sought to encourage and develop high-tech, clean, and renewable sources of energy. Despite these many steps forward, Connecticut's submetering policy hampers the implementation of these measures. Connecticut's current submetering rules were written for a time far before electric restructuring, distributed generation, net metering, microgrids, and many of the cutting-edge technology and policy developments Connecticut has been so accomplished in adopting. As currently interpreted by the Connecticut Public Utilities Regulatory Authority ("PURA"), submetering is permitted only in campgrounds and marinas. This interpretation results in wasteful consumption of energy in adaptive re-use buildings and significantly limits—and in many circumstances outright prohibits—the deployment of distributed power

generation and combined heat and power systems the state so earnestly seeks to support.

Submetering Promotes Energy Efficiency

As the Comprehensive Energy Strategy notes at page 109, many of Connecticut's older repurposed apartment buildings and commercial complexes are master metered, meaning that individual tenants are not metered and billed separately for their utility use. The building receives one electric bill and the landlord includes the cost of electricity in the rent. Master metering, however, is terribly wasteful because there is no direct benefit to self-regulation of energy consumption by the ultimate customer, and is inherently unfair because customers are not billed for their actual utility usage. This increases wasteful energy use, since tenants are not directly responsible for their bill.[1] Because the electrical bill is averaged across all apartments in the building, tenants that actually make efforts to conserve energy subsidize those that waste energy. This result runs counter to the millions of dollars Connecticut spends annually on conservation programs, energy efficiency overhauls and other state supported measures to reduce energy consumption and lower Connecticut's historically high electric rates.

Installing direct utility metering in an adaptive re-use conversion can add hundreds of thousands of dollars to an adaptive re-use project. Without a progressive submetering policy, some adaptive re-use projects will not proceed. In others, the building will revert to master metering (electricity costs are averaged and included in rent), which has been proven to waste energy, is unfair to tenants who use energy wisely, provided virtually no incentive for individual conservation and fails to allocate costs fairly. Attached to this testimony (Attachment A) is the testimony of two experts, Frank Radigan and Phil Teumim, who prepared testimony for PMC that was submitted to PURA. That testimony details the severe problems with master metering and makes sound policy recommendations for submetering in Connecticut.

Submetering Complements Distributed Generation

In 2010, construction was completed on 360 State Street in New Haven, the first residential building in Connecticut to gain Leadership in Energy and Environmental Design ("LEED") Platinum status. The building employs numerous energy efficiency measures and includes a 400 kW fuel cell on site that produces clean, renewable power for the building's residents. Because on site distributed generation like this fuel cell must be "behind the meter," it cannot effectively distribute power to the 500 residential apartments if there are 500 separate residential utility meters. To use distributed generation, the fuel cell needs to be behind one utility meter that serves the building. Then, electricity from the fuel cell or the grid is measured in each apartment by a

[1] A study by the New York State Energy Research and Development Authority for example demonstrated that, on average, tenants who were mastered metered used 20% more energy than those who were submetered. Residential Electric Submetering Manual, New York State Energy Research and Development Authority (October 2001).

submeter. Today, owing largely to our inflexible submetering rules, that fuel cell is operated at partial load; none of the electricity from the fuel cell is used by the residential apartments.

Likewise, submetering rules have similarly knotted the state's microgrid grant and loan program. In legislation passed by this Committee, Connecticut situated itself in the forefront of energy policy issues by passing legislation fostering the development of microgrids. For many reasons, microgrids offer considerable benefits to Connecticut's electric consumers. In spite of the many benefits microgrids provide, during the—still ongoing—pilot project review, significant questions were raised as to the legality of many of the proposed projects on account of conflicts with state submetering rules.

This mismatch in regulatory policy—encouraging development of on-site generation, yet simultaneously narrowing the scope of eligible projects—needlessly stymies the development of distributed generation and renewable energy projects in Connecticut.

Submetering Includes Consumer Protections

As the attached testimony of Messrs. Radigan and Teumim makes clear, consumer protections can easily be incorporated into submetering policy. Meter accuracy, protection from shutoffs and the ability to challenge an inaccurate bill are all part of PMC's proposed consumer protections. These rules go beyond what is required in most other states that allow submetering. And PURA is well positioned to enforce these rules.

Conclusion and Recommended Amended Language

Despite the benefits submetering redeveloped residential properties offer, PURA's current interpretation of Connecticut's submetering rules limits submetering to campground and marinas. Accordingly, *it is critical that HB 6360 make clear that submetering is permitted in revitalized urban buildings.* The Comprehensive Energy Strategy concludes that permitting submetering in revitalized residential buildings advances the energy goals of this state. For this reason, any legislative change should enable these buildings to implement submetering as a matter of right.

To accomplish this result, I recommend that the following additional phrase be added to new clause 3 of Section 6: "or where an existing building has converted as part of an adaptive reuse redevelopment."

Thank you for considering our comments.